

SENATE AMENDMENTS

2nd Printing

By: Parker

H.B. No. 834

A BILL TO BE ENTITLED

AN ACT

relating to regulating the custody transfer of an adopted child;
creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 162, Family Code, is
amended by adding Section 162.026 to read as follows:

Sec. 162.026. REGULATED CUSTODY TRANSFER OF ADOPTED CHILD.

A parent, managing conservator, or guardian of an adopted child may
not transfer permanent physical custody of the child to any person
who is not a relative or stepparent of the child or an adult who has
a significant and long-standing relationship with the child unless:

(1) the parent, managing conservator, or guardian
files a petition with a court of competent jurisdiction requesting
a transfer of custody; and

(2) the court approves the petition.

SECTION 2. Subchapter G, Chapter 162, Family Code, is
amended by adding Section 162.603 to read as follows:

Sec. 162.603. POST-ADOPTION SUPPORT INFORMATION PROVIDED
BY LICENSED CHILD-PLACING AGENCIES. A licensed child-placing
agency shall provide prospective adoptive parents with information
regarding:

(1) the community services and other resources
available to support a parent who adopts a child; and

(2) the options available to the adoptive parent if

1 the parent is unable to care for the adopted child.

2 SECTION 3. Chapter 25, Penal Code, is amended by adding
3 Section 25.081 to read as follows:

4 Sec. 25.081. UNREGULATED CUSTODY TRANSFER OF ADOPTED CHILD.

5 (a) In this section:

6 (1) "Adopted child" means a person younger than 18
7 years of age adopted through a governmental entity or a private
8 child placement agency, including a person who is in foster care or
9 from a foreign country at the time of the adoption.

10 (2) "Unregulated custody transfer" means the transfer
11 of the permanent physical custody of an adopted child by the parent,
12 managing conservator, or guardian of the child without receiving
13 approval of the transfer by a court as required by Section 162.026,
14 Family Code.

15 (b) Except as otherwise provided by this section, a person
16 commits an offense if the person knowingly:

17 (1) conducts an unregulated custody transfer of an
18 adopted child; or

19 (2) facilitates or participates in the unregulated
20 custody transfer of an adopted child, including by transferring,
21 recruiting, harboring, transporting, providing, soliciting, or
22 obtaining an adopted child for that purpose.

23 (c) An offense under this section is a felony of the third
24 degree, except that the offense is a felony of the second degree if
25 the actor commits the offense with intent to commit an offense under
26 Section 20A.02, 43.02, 43.05, 43.25, 43.251, or 43.26.

27 (d) This section does not apply to:

1 (1) the placement of an adopted child with a licensed
2 child-placing agency, the Department of Family and Protective
3 Services, or an adult relative, stepparent, or other adult with a
4 significant and long-standing relationship to the child;

5 (2) the placement of an adopted child by a licensed
6 child-placing agency or the Department of Family and Protective
7 Services;

8 (3) the temporary placement of an adopted child by the
9 child's parent, managing conservator, or guardian for a designated
10 short-term period with a specified intent and period for return of
11 the child due to temporary circumstances, including:

12 (A) a vacation;

13 (B) a school-sponsored function or activity; or

14 (C) the incarceration, military service, medical
15 treatment, or incapacity of the parent, managing conservator, or
16 guardian;

17 (4) the placement of an adopted child in another state
18 in accordance with the requirements of Subchapter B, Chapter 162,
19 Family Code; or

20 (5) the voluntary delivery of an adopted child under
21 Subchapter D, Chapter 262, Family Code.

22 SECTION 4. Section 25.09(a), Penal Code, is amended to read
23 as follows:

24 (a) A person commits an offense if the person advertises in
25 the public media that the person will place, ~~[a child for adoption~~
26 ~~or will]~~ provide, or obtain a child for adoption or any other form
27 of permanent physical custody of the child.

1 SECTION 5. The change in law made by this Act to Section
2 25.09, Penal Code, applies only to an offense committed on or after
3 the effective date of this Act. An offense committed before the
4 effective date of this Act is governed by the law in effect on the
5 date the offense was committed, and the former law is continued in
6 effect for that purpose. For purposes of this section, an offense
7 was committed before the effective date of this Act if any element
8 of the offense was committed before that date.

9 SECTION 6. This Act takes effect September 1, 2017.

ADOPTED

MAY 17 2017

Patricia Spaul
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY

Brian Sindwell

1 Amend H.B. No. 834 (senate committee printing) in SECTION 3
2 of the bill, in added Section 25.081(a)(1), Penal Code (page 1,
3 lines 48-49), by striking "adopted through a governmental entity or
4 a private child placement agency" and substituting "who was legally
5 adopted through a governmental entity or through private means".

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 18, 2017

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB834 by Parker (Relating to regulating the custody transfer of an adopted child; creating a criminal offense.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Family Code and the Penal Code relating to regulating the custody transfer of an adopted child. Based on information provided by the Department of Family and Protective Services, it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill would also amend the Penal Code to create a criminal offense for the unregulated custody transfer of an adopted child and expands the definition of the offense of advertising for the placement of a child. This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

The bill would take effect September 1, 2017.

Local Government Impact

According to the San Antonio Police Department, the fiscal impact to implement the provisions of the bill is not anticipated to be significant.

Source Agencies: 530 Family and Protective Services, Department of, 696 Department of Criminal Justice

LBB Staff: UP, AG, EP, JLi, JPo, JGA, FR

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 10, 2017

TO: Honorable Joan Huffman, Chair, Senate Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB834 by Parker (Relating to regulating the custody transfer of an adopted child; creating a criminal offense.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

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LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 19, 2017

TO: Honorable Harold V. Dutton, Jr., Chair, House Committee on Juvenile Justice & Family Issues

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB834** by Parker (Relating to regulating the custody transfer of an adopted child; creating a criminal offense.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

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LBB Staff: UP, FR, EP, JLi, JPo, JGA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 3, 2017

TO: Honorable Harold V. Dutton, Jr., Chair, House Committee on Juvenile Justice & Family Issues

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB834 by Parker (Relating to prohibiting certain actions regarding the rehoming of an adopted child; creating a criminal offense.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Family Code to prohibit certain actions regarding the rehoming of an adopted child. Based on information provided by the Department of Family and Protective Services, it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill would also amend the Penal Code to create a criminal offense for the unauthorized rehoming of an adopted child and expands the definition of the offense of advertising for the placement of a child. This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

The bill would take effect September 1, 2017.

Local Government Impact

According to the San Antonio Police Department, the fiscal impact to implement the provisions of the bill is not anticipated to be significant.

Source Agencies: 530 Family and Protective Services, Department of, 696 Department of Criminal Justice

LBB Staff: UP, FR, EP, JLi, JPo, JGA

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

85TH LEGISLATIVE REGULAR SESSION

May 10, 2017

TO: Honorable Joan Huffman, Chair, Senate Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB834 by Parker (Relating to regulating the custody transfer of an adopted child; creating a criminal offense.), **As Engrossed**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Penal Code and Family Code as they relate to the punishment for certain offenses involving the adoption of a child. Under the provisions of the bill, the circumstances for the offense of advertising for the placement of a child for adoption would be expanded. This offense is punishable as a Class A misdemeanor or third degree felony, depending upon the specific circumstances of the offense. The bill also creates a criminal offense for unregulated custody transfer of an adopted child, which would be punishable by a second or third degree felony, depending upon the circumstances.

A second degree felony is punishable by confinement in prison for a term of 2 to 20 years and a third degree felony is punishable by confinement in prison for a term from 2 to 10 years. In addition to confinement, most felony offenses are subject to an optional fine not to exceed \$10,000.

Creating a criminal offense and expanding the list of behaviors for which a criminal penalty is applied are expected to result in increased demands on the correctional resources of counties or of the State due to a potential increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement within state correctional institutions. In fiscal year 2016, fewer than 10 individuals were arrested, fewer than 10 were placed under felony community supervision, and fewer than 10 were admitted into state correctional institutions for the offense of advertising for the placement of a child under existing statute. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

Source Agencies:

LBB Staff: UP, LM, JPo

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

85TH LEGISLATIVE REGULAR SESSION

April 20, 2017

TO: Honorable Harold V. Dutton, Jr., Chair, House Committee on Juvenile Justice & Family Issues

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB834 by Parker (Relating to regulating the custody transfer of an adopted child; creating a criminal offense.), **Committee Report 1st House, Substituted**

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Source Agencies:

LBB Staff: UP, LM, JPo

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

85TH LEGISLATIVE REGULAR SESSION

April 3, 2017

TO: Honorable Harold V. Dutton, Jr., Chair, House Committee on Juvenile Justice & Family Issues

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB834 by Parker (Relating to prohibiting certain actions regarding the rehoming of an adopted child; creating a criminal offense.), **As Introduced**

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LBB Staff: UP, LM, JPo